

## University of Oklahoma College of Law University of Oklahoma College of Law Digital Commons

---

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

---

2-19-1879

Memorial of the delegates of the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nation of Indians, remonstrating against the passage of Senate bill No. 1802 to establish a United States Court in the Indian Territory, and for other purposes

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

---

### Recommended Citation

S. Misc. Doc. No. 73, 45th Cong., 3rd Sess. (1879)

This Senate Miscellaneous Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact [darinfox@ou.edu](mailto:darinfox@ou.edu).

## MEMORIAL

OF THE

### DELEGATES OF THE CHEROKEE, CREEK, CHOCTAW, CHICKASAW, AND SEMINOLE NATION OF INDIANS,

REMONSTRATING

*Against the passage of Senate bill No. 1802 to establish a United States court in the Indian Territory, and for other purposes.*

---

FEBRUARY 19, 1879.—Ordered to lie on the table and be printed.

---

*To the Congress of the United States:*

Your memorialists, citizens and delegates of the Cherokee, Creek, Seminole, Choctaw, and Chickasaw Nations of Indians, respectfully show:

1. Under the resolution of the Senate of February 25, 1878, instructing the Committee on Territories of the Senate to make certain inquiries touching the issuance of bonds, &c., by railway companies whose roads pass through the Indian Territory, to ascertain the expenditures by the Indian nations therein referred to, for the support of delegations in this city, &c., and concerning other subjects therein named, that the committee was not authorized to report by bill and without such authority from the Senate, they could not originate any legislation.

2. That the bill proposed will destroy our tribal organizations, our legislatures, judiciaries, our laws, customs, and privileges, guaranteed to us by treaties, by making us citizens of the United States, and will open our country to a tide of immigration which will flood it, occupy our lands and deny to us the enjoyment of them, although the legal title may remain in our nations.

3. Under cover of the 29th section of the bill for the election of a Delegate to Congress from the Territory, it will be practicable for the people from the States to flock into our country and elect a Delegate who is opposed to all our interests, and who will use his position to the utmost extent to effect such legislation as will complete the scheme for despoiling our people of their homes—a man who will represent every interest but that of the Indians. That this part of the bill is drawn with reference to that end will appear from the next section.

4. The 30th section of the bill places no limitation on the right of suffrage in electing said Delegate except a residence of six months in the country and twenty-one years of age. It does not even require the voters to be citizens of the United States, and thus renders it practicable for the railroad companies and speculators to import cheap laborers from any quarter and make voters of them by keeping them six months in our country.

5. There is no authority for this legislation in any of our treaties; on the other hand, they forbid it. We do not deny the right of the United States to create a court in our country with the jurisdiction defined by

our treaties. But they expressly retain the jurisdiction of our local tribunals, and never contemplated submitting our rights, as among ourselves, to the mockery of a trial by imported jurymen.

6. That we are not citizens of the United States has been decided over and over again by the Supreme Court of the United States, and is admitted in the report of the Committee on Territories itself when their third recommendation is that they "should become citizens of the United States."

7. That our nations have expended money in the support of delegations to Washington is not denied; but it was their own, and they have been here not merely by virtue of the natural right belonging to them to go and come as duty may dictate so long as they behave themselves and impose no tax upon the United States for their support, but in accordance with the privileges guaranteed to them by their treaties with the United States. They spend money on delegations, not as a matter of choice, but because they are driven to it by the exigencies of their situation and the vast interests they have involved of every character. The sweeping character of the very bill now under consideration, to say nothing of the thirty or forty measures introduced into Congress within a dozen years looking to the seizure of our lands and the ruin of our homes, furnishes, it seems to us, a full answer to the complaint under this head.

8. In reply to the conclusion drawn by the honorable committee from the reference to the terms of the Louisiana purchase in 1803, it is enough to say that at the date of that purchase the nations we represent resided east of the Mississippi River, and were not within its limits; that the country they now occupy was a howling wilderness, over which roamed the Osage and others tribes, who were then nomadic, but who have been overlooked by the committee in their proposed measure for transforming our tribes into citizens of the United States; that President Jefferson effected the purchase of the territory in question, and President Jefferson inaugurated the policy under which we were transported and located in our present homes. It is not a violent assumption that President Jefferson was somewhat familiar with the terms of the Louisiana purchase, and that he would not have inaugurated any system in violation of its true intent and meaning within less than a half dozen years after its consummation. The simple meaning of the clause quoted by the committee was that the French population should be incorporated into the Union, and had no reference to the Indians.

9. The case of the United States *vs.* Rogers (4 Howard, p. 567), cited in the report as authority that a citizen of the United States cannot become an Indian, is not now a case in point. Under the Cherokee and Choctaw and Chickasaw treaties of 1866 the reverse is clearly recognized as law, and the practice of the United States court which holds jurisdiction over the Territory is in accordance with it.

CHARLES THOMPSON,  
*Principal Chief.*

D. M. HODGE,  
*Creek Delegation.*

W. P. ADAIR,  
WILL. P. ROSS,  
SAMUEL SMITH,  
DANL. H. ROSS,  
*Cherokee Delegation.*

P. P. PITCHLYNN,  
*Delegate Choctaw Nation.*  
JOHN F. BROWN,  
*Seminole Delegate.*

G. W. STIDHAM,  
PLEASANT PORTER,

B. F. OVERTON,  
*Delegate Chickasaw Nation.*

WASHINGTON, D. C., February 18, 1879.